

Message Text

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R 022337Z NOV 73

FM SECSTATE WASHDC

TO AMEMBASSY ISLAMABAD

AMCONSUL KARACHI

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E.O. 11652:N/A

TAGS:

SUBJECT: PAKISTAN INCOME TAX ON COOLEY LOAN INTEREST -
GENERAL TYPE

REF: STATE 150190

1. LAWYERS FOR OPIC, AID AND DEPARTMENT OF STATE HAVE AGREED
ON APPROACH TO GENERAL SOLUTION OF PROBLEM RAISED BY GENERAL
TYRE CASE. HOWEVER, WE BELIEVE ANY RESOLUTION OF PROBLEM
FIRST INVOLVES THOROUGH ANALYSIS OF PAKISTANI TAX LAW TO DE-
TERMINE METHOD OF APPROACH TO THE GOVERNMENT. WE
ALSO BELIEVE ANY APPROACH TO GOVERNMENT OFFICIALS SHOULD
INITIALLY BE AT LOWEST LEVEL POSSIBLE.

2. REGIONAL LEGAL ADVISOR (RLA) IS REQUESTED TO PREPARE
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OPINION ON LOCAL TAX LAW AND POSSIBLE ARGUMENTS WE MIGHT

PRESENT TO TAX AUTHORITIES RE EXEMPTION FOR TAX. IF RLA DOES NOT HAVE FACILITIES TO DO RESEARCH NECESSARY, HE IS HEREBY AUTHORIZED TO RETAIN LOCAL COUNSEL FOR SUCH PURPOSE. WE WOULD PREFER TO HAVE SUCH CONTRACT LET THROUGH MISSION BUT ARE PREPARED TO MAKE ARRANGEMENTS THROUGH OPIC'S CONTRACT OFFICE UNDER FOOLEY LOAN AUTHORITY. PLEASE ADVISE ASAP OF APPROACH RECOMMENDED.

3. TAX QUESTIONS WHICH SHOULD BE EXPLORED ARE AS FOLLOWS:

A. STATUTE OF LIMITATIONS.

B. DOES LEGAL OBLIGATION TO PAY TAX LIE WITH LENDER (I.E., USAID UNDER THE INCOME TAX LAWS?

C. DOES EXEMPTION FROM TAXATION EXCUSE PAST FAILURE TO PAY?

4. FYI: A SIMILAR QUESTION RE INCOME TAXES WAS RAISED IN INDIA. AID WAS ABLE TO OBTAIN AN OPINION THAT TAX CODE DEFINITION DID NOT APPLY TO A FOREIGN SOVEREIGN. WE ANTICIPATE SIMILAR APPROACH HERE MAY BE EFFECTIVE. END FYI.

5. REGARDLESS OF U.S. ACTION, GENERAL TYRE SHOULD NOT BE EXCUSED FROM ASSISTANCE AS OUTLINED PER REFTTEL PARA 2. WE MIGHT DESIRE TO KEEP THEM INVOLVED OR OUT FRONT IN ANY APPROACH TO GOP. MOREOVER, SHOULD GOP ACTION BE UNFAVORABLE, WE MAINTAIN UNDER THE PROVISIONS OF SECTION 2.05 OF THE CREDIT AGREEMENT (I.E. LOAN AGREEMENT) THAT GENERAL TYRE IS LIABLE FOR ANY TAXES DUE.

DECONTROL 11/2/74.
KISSINGER

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